

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA)	
)	
)	
Vs.)	No. 3:19-cr-00296
)	JUDGE RICHARDSON
)	
DAVID WIGGINS)	

MOTION TO CONTINUE TRIAL

Comes now the defendant David Wiggins, through counsel, David. I. Komisar, and respectfully moves this Honorable Court to continue the trial currently set for November 17, 2020 (D.E. #21). In support of this motion counsel would show as follows:

1. The COVID-19 spike has arrived in Nashville. By any measure, Nashville is much more dangerous place than it was on August 19, 2020 when the Administrative Order No. 206, Sixth Amended (AO206) was issued, suspending all criminal trials through October 31, 2020. As of today, October 28, 2020, new COVID-19 cases per 100,000 is 34.5%. On August 19, 2020, the number was 24.2%. For the period from October 22, 2020 to October 28, 2020 there were a total of 1,873 new COVID-19 cases for a seven-day daily average of 268 new cases. For the period from August 13, 2020 to August 19, 2020 there were a total of 1,262 new COVID-19 cases for a seven- day daily average of 180 new cases. Of the key metrics, Nashville is currently unsatisfactory for transmission rate, 14-day new case trend and new cases per 100,000 residents. Nashville is less than satisfactory for both hospital capacity beds and ICU beds. The source of the

above-stated statistics come directly from Metropolitan Nashville government website, asafenashville.org/updates. Most experts believe the COVID-19 pandemic is going to get worse in the next several months before it gets better. So, the question for the Court is since we are experiencing a greater surge of COVID-19 cases than we were on August 19, 2020 why should trials now resume when the defendant is not opposed to a continuance?

2. Mr. Wiggins is a sixty- year old African American suffering from high blood pressure. Counsel, notwithstanding of his youthful appearance and general good looks, is an old man of 67 suffering from diabetes.
3. Mr. Wiggins will sign a speedy trial waiver and it will be filed with the court on or before Monday, November 2, 2020.
4. Counsel was hopeful that a November 2020 trial date would work. COVID-19 has decided otherwise. Now, it appears that March 2020 might be the earliest safe date to try this case. Thus, if it is convenient with the government and the Court's calendar, would suggest a March or later date.
5. The government, through AUSA Robert McGuire, has authorized me to state the government does not oppose this motion.

Respectfully submitted,

s/ David I. Komisar

David I. Komisar
Attorney for David Wiggins
800 Broadway, 3rd Floor
Nashville, Tennessee 37203
615-242-2675

CERTIFICATE OF SERVICE

I hereby certify that on October 28, 2020, a true and correct copy of the foregoing has been served electronically through the ECF system on Robert McGuire, Assistant U.S. Attorney.

s/ David I. Komisar
David I. Komisar